



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
02/08/07



MEMORANDUM

DATE: January 25, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Development Review Division

FROM: Catherine Conlon, Subdivision Supervisor (301-495-4542)
Development Review Division *CC*

REVIEW TYPE: Subdivision Review Waiver

APPLYING FOR: Four lots without frontage on a public street

PROJECT NAME: Eastside

CASE #: SRW07001

REVIEW BASIS: Chapter 50, Montgomery County Subdivision Regulations

ZONE: PD-11

LOCATION: Located on the southeast side of Shawnee Lane, approximately 75' east of Gateway Center Drive

MASTER PLAN: Clarksburg

APPLICANT: Miller and Smith at Eastside, LLC

ENGINEER: Loiderman Soltesz Associates, Inc.

ATTORNEY: Schulman Rogers, Gandal, Porly & Ecker

FILING DATE: November 15, 2006

HEARING DATE: February 8, 2007

STAFF RECOMMENDATION: Approval of a waiver of Section 50-29(a)(2) of the Subdivision Regulations, pursuant to Section 50-38, to permit proposed Lots 145-148 without frontage on a public street.

DISCUSSION:

On June 22, 2006, the Planning Board approved Preliminary Plan 120051010 for the Eastside property, located on the southeast side of Shawnee Lane in Clarksburg. The approval included 81 lots and two (2) parcels for the construction of a maximum of 285 residential dwelling units, including 39 moderately priced dwelling units (MPDUs). The dwellings were a combination of townhouses and multi-family, two-over-two units, served by public water and sewer, with access via private streets and alley/driveways from Shawnee Lane.

The approval included a waiver from Subdivision Regulation 50-29 (a) (2), which requires, "...that individually recorded lots shall abut on a street or road which has been dedicated to public use or which has acquired the status of a public road." The Planning Board found that, with one exception, the proposed private streets and alley/driveways had acquired the status of a public road because they were: fully accessible to the public; accessible to fire and rescue vehicles, as needed; and designed to minimum public road standards, except for right-of-way and pavement widths.

Townhouse lots 152-155 abutted an alley/driveway that did not attain the status of public road because it did not provide appropriate circulation or terminus necessary for a public street. Since the alley/driveway was the only frontage provided for the lots, staff recommended, and the Board granted, a waiver to permit the proposed configuration. Section 50-38(a) authorizes the Planning Board to grant waivers of any part of the Subdivision Regulations based upon a finding that practical difficulties or unusual circumstances exist which prevent full compliance with the requirements. The Board found that the waiver was justified because the proposed neo-traditional neighborhood design best implements the intent of the Clarksburg Master Plan, particularly with regard to integrating green space throughout the development.

During review of the preliminary plan, the Board also directed the applicant to revise the layout at site plan to add more green space. The applicant has now submitted a site plan which incorporates the Board's recommendation by reducing the total number of lots, increasing the number of townhouse units, reducing the number of multi-family units and rearranging the location of units. The application also provides more green space and visitor parking. The improved layout, however, places four more townhouses (proposed Lots 145-148) in the same situation as Lots 152-155, that are not abutting a roadway dedicated to public use or having acquired the status of a public road (Attachment A).

The applicant has requested, and staff supports, a waiver of road frontage for these lots. The plan still reflects the general layout and road network of the approved development plan. Neo-traditional design continues to be fundamental to the project's

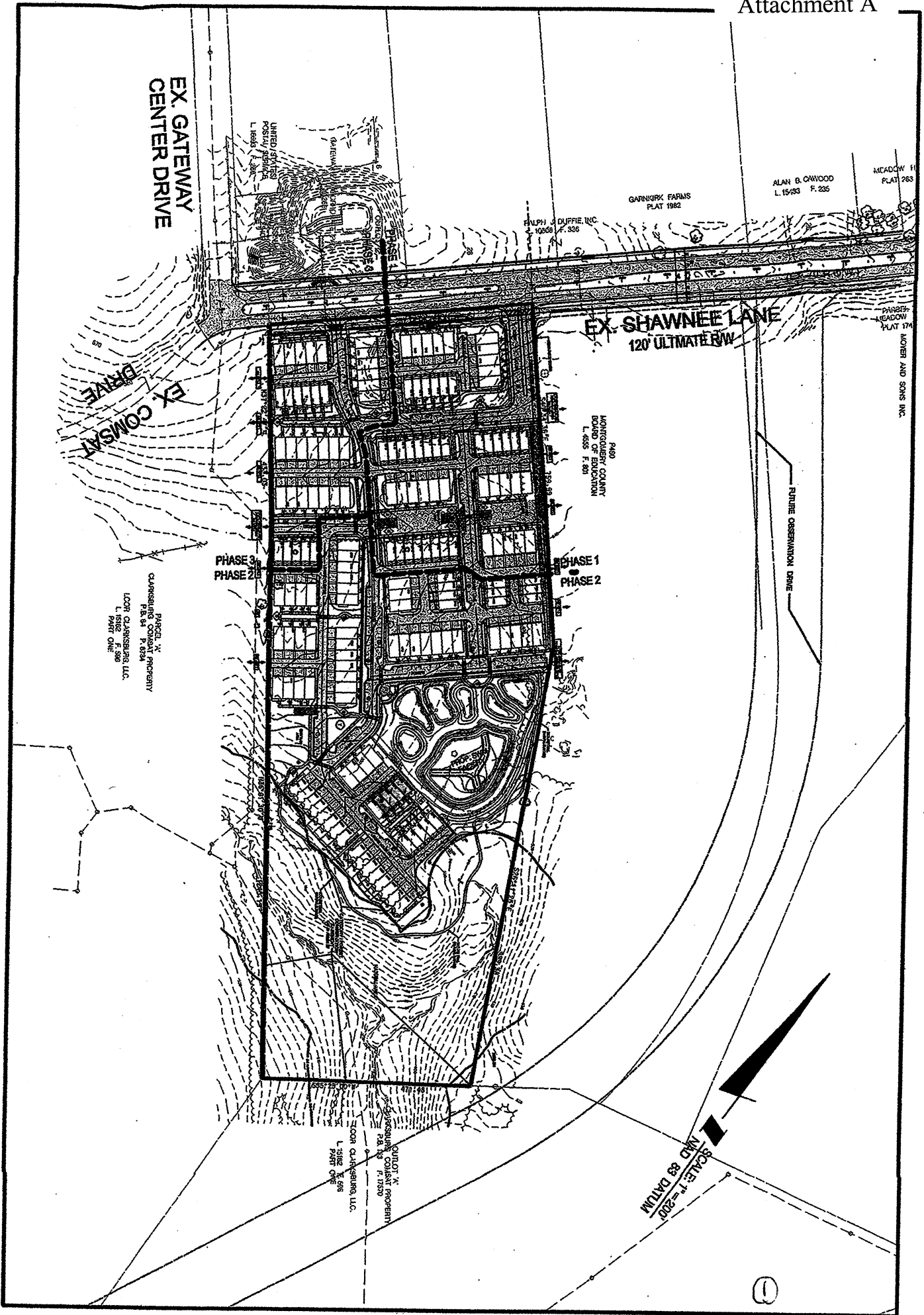
layout with a hierarchy of streets, including alleyways, a mix of unit types and densities, and dispersed green area. Converting eight multifamily residences to the four proposed townhouses creates more internal green space between the units and abutting Lots 152-155. The requested waiver facilitates green space that reduces the amount of paving in the development, and creates a visible open area and gathering space for the community. Montgomery County Fire and Rescue Service (MCFRS) has reviewed the proposed alley for fire access to the lots and determined that all the houses will be adequately served.

CONCLUSION:

Staff finds that the requested subdivision waiver for Preliminary Plan #120051010, Eastside, is justified because the proposed neo-traditional neighborhood design best implements the intent of the Clarksburg Master Plan, particularly with regard to integrating green space throughout the development. In staff's opinion, the waiver is the minimum needed, is not contrary to the recommendations of the General Plan, and is not adverse to the public interest. As such, Staff recommends approval of a waiver of Section 50-29(a)(2) of the Subdivision Regulations, pursuant to Section 50-38, to permit proposed Lots 145-148 without frontage on a public street.

Attachments

- Attachment A Proposed Site Plan Layout
- Attachment B Applicant's Waiver Request



EX. GATEWAY CENTER DRIVE

EX. SHAWNEE LANE
120' ULTIMATE RW

EX. COMSAT DRIVE

PHASE 3
PHASE 2

PHASE 1
PHASE 2

PARCEL 'X'
CLANGSBURG COUNTY PROPERTY
P.B. 84 P. 8734
L. 15182 F. 580
PART ONE

9493
HONIGSBURY COUNTY
BOARD OF EDUCATION
L. 4555 F. 801

FUTURE OBSERVATION DRIVE

OUTLOT 'A'
CLANGSBURG COUNTY PROPERTY
P.B. 84 P. 17500
L. 15182 F. 688
PART ONE

SCALE: 1" = 200'
M.D. 88 DATUM

1

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Spring Hill Road
Suite 400
McLean, Virginia
22102
703-821-2500
Fax:
703-821-2040
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November 7, 2006

Ms. Piera Weiss
Planner Coordinator
Montgomery County Department of Park and Planning
8787 Georgia Avenue
Silver Spring, MD 20910

Regarding: Subdivision Waiver Request – Eastside Site Plan

Dear Ms. Weiss,

Request

We request approval of our waiver request for four townhome lots (Lots 145-148) concurrent with the approval of Site Plan for Eastside. The request is based upon the same design and location reasons that supported the waiver granted earlier by the Planning Board. Such waiver for the four other townhome lots (then identified as “Lots 152-155”)¹ is fully discussed in the staff report, and the draft Planning Board Opinion (see pages 4-5 of the attached draft).

Preliminarily, Lots 145-148, (for which we are requesting a waiver), are hereinafter referred to as the “New Lots.” Lots 150-153, (the lots for which the Planning Board already granted a waiver), are referred to as the “Approved Lots.”

Background

On June 22, 2006, the Montgomery County Planning Board approved preliminary plan 120051010 (previously 1-05101) for the Eastside neighborhood on Shawnee Lane. During the Planning Board’s discussion, the Board suggested that we consider adding and thereby enhancing the neighborhood’s green area, especially along the western portion of the neighborhood. Miller and Smith considered the Board’s recommendation and modified its site plan. We were able to achieve more green area by reducing the total number of residences from 285 to 265 and converting 36 multifamily

Miller and Smith Homes
Miller and Smith Land

¹ The townhome lots identified on the preliminary plan as “Lots 152-155” that were the subject of the Planning Board waiver have since been renumbered and are shown on the site plan as “Lots 150-153.” Such lots are referred to herein as the “Approved Lots.”

residences to 16 townhomes, while still satisfying the development plan and the preliminary plan. Because each row of townhomes (from the front building face to the alley) takes up less area than a row of multifamily residences, converting multifamily to townhomes increased the green area while reducing the number of residences. The added green area and its enhanced physical and visual accessibility make for a more pleasing and livable transit-oriented urban neighborhood.

The New Lots front on the same mews as the Approved Lots. Constrained by stream valley buffers and stormwater management areas, this neighborhood's width is narrower than other areas. Insufficient width exists for the road (Leaman House Drive) serving the New Lots to form an efficient loop back to the rest of the neighborhood road network. However, Leaman House Drive and the alleys serving the townhomes meet all of the design requirements for fire access and vehicle turn-around areas. The revised layout resulted in the need for another subdivision waiver request for public road frontage for four more townhomes (the "New Lots").

As stated in the Preliminary Plan Opinion, "Section 50-29(a)(2) of the Subdivision Regulations provides that individually recorded lots shall abut on a street or road which has been dedicated to public use, or which has acquired the status of a public road." The Opinion found that "the proposed streets which provide frontage to individually recorded lots can meet the minimum standards necessary to make the finding that they have the status of a public road..." The Opinion also acknowledges that "Section 50-38(a) authorizes the Planning Board to grant waivers of any part of the Subdivision Regulations based upon a finding that practical difficulties or unusual circumstances exist which prevent full compliance with the requirements."

Again, the Approved Lots front on a mews in the rear and narrow portion of the neighborhood. They abut an alley/driveway which does not attain the status of a public road because it does not provide appropriate circulation or terminus. Because the alley/driveway is the only frontage provided, the waiver was necessary to permit the approved configuration. The Planning Board determined that the lot configuration facilitated the creation of internal green spaces between units. Further, the Montgomery County Fire and Rescue Service ("CFRS") had reviewed the proposed alley for fire access and determined that all the houses will be adequately served.

For the Approved Lots, the Planning Board found that "[t]he Applicant's proposed plan reflected the general layout and road network that was reviewed by the Planning Board and the District Council as part of the development plan approved with the rezoning of the subject property." The Planning Board also found that "[t]he layout was designed to meet the master plan goals for density near proposed transit, and creation of

neighborhood that incorporates the general principles of neo-traditional design such as, a hierarchy of streets, including a series of alleyways, with a mix of housing types and densities, and green areas dispersed throughout.” The Planning Board further found that “[t]he configuration of the lots for which the waiver was necessary does facilitate the creation of internal green spaces between the units.” The Planning Board agreed with the M-NCPPC Staff that the proposed layout achieved the intent of the Clarksburg Master Plan and that the waiver granted was “the minimum needed, is not contrary to the recommendations of the General Plan and is not adverse to the public interest.”

We believe that the grounds for the Planning Board granting the waiver for the Approved Lots are of equal application and merit in the case of the New Lots. The Applicant’s proposed plan still reflects the general layout and road network of the development plan. Its layout is designed to meet the Clarksburg Master Plan goal for fostering density near transit. Neo-traditional design continues to be fundamental to the project’s layout with a hierarchy of streets, including alleyways, a mix of unit types and densities, and dispersed green area. Converting from 8 multifamily residences to the New Lots (4 townhome lots) similarly affords more internal green area between the units. The layout continues, therefore, to achieve the Master Plan’s intent, and, in order to balance and accommodate the various elements of the plan, including density, the provision of the New Lots contributes to maintaining the project’s density near transit, among other objectives. Finally, in light of the adequate fire service access, and the other elements, the New Lots are not adverse to the public interest.

Nonetheless, if the Planning Board does not approve the waiver, then we request approval of the site plan with a condition permitting the New Lots (Lots 145-149) to be converted to lots for eight multifamily residences, as approved by the Planning Board as part of the preliminary plan. Such change would result in a Site Plan approval of a total of 268 residences (versus 265).

Conclusion

The waiver request is for the New Lots and based on the same grounds on which the Planning Board determined (and the Staff recommended) for the Approved Lots that such waiver “is the minimum needed, is not contrary to the recommendations of the General Plan, and is not adverse to the public interest.” The requested waiver for the New Lots would increase the number of townhome lots subject to the same type of waiver. However, they would decrease the number of residences (from 8 to 4) that would be located in the relatively narrow subject area. Even still, adequate fire service access is provided. The conversion of multifamily residences to townhomes directly responds to the Planning Board’s request to provide more green area. For the above reasons, the

Ms. Piera Weiss
Planner Coordinator
November 7, 2006

waiver is the minimum necessary to provide relief from the requirements, is not inconsistent with the purposes and objectives of the General Plan, and is not adverse to the public interest. Thank you for your consideration. Please let me know if you have any questions or require additional information during your review.

Sincerely,



Robert J. Spalding, AICP

Attachments:
Planning Board Opinion Excerpt
Subdivision Regulation Waiver Application
Application Fee (\$1,390.00) Check

cc: Ed Wallington
Tim Dugan
Kelly Drumm